

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

DUSTIN ABRAMS,

Plaintiff,

vs.

ROBERT CHURCH, GREG KNUTSON,
TROY ALLISON, PHILLIP COATS,
KERRI ADLER, PETE McMAHAN,
SCOTT PONOZZO, D. JAY, D.
BARROWS, JAMES WEAVER, GRANT
COUNTY SHERIFFS DEPARTMENT
(CORRECTIONS DIVISION), and
KIM NEWLAND,

Defendants.

NO. CV-06-155-CI

REPORT AND RECOMMENDATION TO DENY
MOTION FOR INJUNCTIVE RELIEF

BEFORE THE COURT is Plaintiff's document titled, "Order to Show Cause For a Preliminary Injunction A Temporary Restraining Order" which the court has liberally construed as a Motion for Injunctive Relief (Ct. Rec. 7). Plaintiff, a prisoner at the Grant County Jail, is proceeding *pro se* and *in forma pauperis*; Respondents have not been served.

The court has no jurisdiction to address Plaintiff's motion until he has filed a legally sufficient complaint. See generally Fed. R. Civ. P. 3 and the notes following the rule. Furthermore, Defendants are not parties to a suit before being served with process, see *Neals v. Norwood*, 59 F.3d 530, 532 (5th Cir. 1995). At the time Plaintiff

1 submitted his motion, he had not presented a legally sufficient
2 complaint. Accordingly, **IT IS RECOMMENDED** Plaintiff's Motion (Ct.
3 Rec. 7) be **DENIED** with leave to re-file once his has submitted a
4 legally sufficient complaint.

5 **OBJECTIONS**

6 Any party may object to a magistrate judge's proposed findings,
7 recommendations or report within ten (10) days following service with
8 a copy thereof. Such party shall file with the District Court
9 Executive all written objections, specifically identifying the
10 portions to which objection is being made, and the basis therefor.
11 Attention is directed to Fed. R. Civ. P. 6(e), which adds another
12 three (3) days from the date of mailing if service is by mail.

13 A district judge will make a *de novo* determination of those
14 portions to which objection is made and may accept, reject, or modify
15 the magistrate judge's determination. The district judge need not
16 conduct a new hearing or hear arguments and may consider the
17 magistrate judge's record and make an independent determination
18 thereon. The district judge may also receive further evidence or
19 recommit the matter to the magistrate judge with instructions. See 28
20 U.S.C. § 636(b)(1)(B) and (C), Fed. R. Civ. P. 73, and LMR 4, Local
21 Rules for the Eastern District of Washington. A magistrate judge's
22 recommendation cannot be appealed to a court of appeals; only the
23 district judge's order or judgment can be appealed.

24 DATED September 27, 2006.

25
26 S/ CYNTHIA IMBROGNO
27 UNITED STATES MAGISTRATE JUDGE